

Higbee & Associates

A NATIONAL LAW FIRM

October 26, 2022,
Re: Claim Number: 568KWK Settlement Communication

Dear Sir or Madam,

I am writing to you from the Law Firm of Higbee & Associates on behalf of our client, Trunk Archive.

Trunk Archive represents the portfolio(s) of photographer(s) Michelle Monique for exclusive, worldwide licensing. Copyrighted image(s) managed by our client were identified on the Deluxe Cosmetic Center website(s) at the URLs listed below. Please reference the screenshots shown in Exhibit(s) below.

Trunk Archive does not have a licensing agreement on file for the aforementioned use(s).

There is a chance that you were given permission to use the image(s) by the photographer(s) directly and my client is not aware. If this is the case, please provide the details of said permission to claims@higbeeassociates.com with the claim number 568KWK included in the subject line. Additionally, if you do have a valid licensing agreement with Trunk Archive or believe for another reason that you are receiving this message in error, please email us as above or call us at +1 800-716-1245. We apologize for the inconvenience and will update our records accordingly.

If Deluxe Cosmetic Center does not have a valid licensing agreement pertaining to the use(s) documented below, let this letter serve as official notice that Deluxe Cosmetic Center is in violation of The Copyright Act, Title 17 of the United States Code. Please be advised that the law requires you to expeditiously remove or disable access to the infringing image(s) upon receipt of this notice. Enclosed is the relevant section of the law and sources of additional information for further reading.

Unauthorized use and distribution of Trunk Archive image(s) deprives the rightful copyright owner(s) of income and causes my client to incur substantial costs in infringement detection and enforcement. If forced to go to court to resolve this matter, my client will ask for the maximum justifiable damages. My client may also ask the court to order Deluxe Cosmetic Center to pay their attorney's fees and court costs.

As such, Trunk Archive would prefer to resolve this matter outside of court and is willing to offer a complete release of all liability associated with the use(s) documented below for **\$6500**.

If you wish to resolve this claim outside of court and without contacting us, you can do so, per the following steps:

(1) Within five business days after receipt of this letter, remove all occurrences of the image(s) from your website(s), cease using it in any way, and confirm in writing that you have done so.

AND

(2) Within seven business days after receipt of this letter, return to our firm the attached Release License, along with your payment of **\$6500** made payable to **Higbee & Associates Client Trust Account**. This can be returned to us via US Mail. You can also pay over the

phone or online at <http://copyright.higbeeassociates.com/resolution>. Your login is 568KWK. Your password is z92hlogj. If you choose to make your payment online, you can return the Release License via email to claims@higbeeassociates.com. Please include the claim number (568KWK) in the subject line.

If instead, Deluxe Cosmetic Center wishes to dispute the details of this claim or the above settlement offer, you and/or your legal representation may contact us at claims@higbeeassociates.com or by phone at +1 800-716-1245 and we will get back to you promptly.

Please be sure to respond in order to avoid this matter escalating to litigation. Should we not hear from you within 10 days, we will assume that you do not have proper license(s) or other, valid permission(s) for the use(s) described and will take all necessary, subsequent steps to resolve this claim.

We understand that many companies are experiencing challenges during these times. If you need additional time to investigate or resolve this matter, simply call or email us and we will put the claim on hold for 30 days.

Thank you very much for your cooperation.

Sincerely,

Mathew K. Higbee
Mathew K. Higbee
Attorney at Law

EXHIBIT A



Image Name: GS1743808.jpg

Infringing Webpages:

- <https://www.instagram.com/deluxecosmeticcenter/>

Infringing File Locations:

- <https://www.instagram.com/p/CiiQStGJt8Q/?igshid=YmMyMTA2M2Y%3D>

Infringing images and screenshots are shown below. You can receive copies of these images via email by sending a request to infringements@higbeeassociates.com. The email must include the case number (568KWK) in the subject line.



Claim number: 568KWK

If you are a non-commercial entity (meaning you do not derive income from the website) or if you do not do business in the US, please let us know as you are probably receiving this letter in error.

DAMAGES UNDER COPYRIGHT LAW - 17 US CODE §504 (In Part)

(a) Except as otherwise provided by this title, an infringer of copyright is liable for either—

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or **(2)** statutory damages, as provided by subsection (c).

(b) Actual Damages and Profits.—

The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory Damages. — **(1)** Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than \$750 or more than \$30,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

COSTS & ATTORNEYS FEES UNDER 17 US CODE §505 (In Part)

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

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For more information about copyright law consult an attorney or see:

<https://www.copyright.gov/title17/>

<https://www.copyright.gov/title17/92chap5.html>

This law is being provided as a courtesy. Higbee & Associates is not your attorney.

**SOME CLAIMS MAY ALSO INCLUDE ADDITIONAL LIABILITY FOR REMOVING OR ALTERING
COPYRIGHT MANAGEMENT INFORMATION**

17 US CODE SECTION 1202 (IN PART)

(b) Removal or Alteration of Copyright Management Information.—No person shall, without the authority of the copyright owner or the law—

(1) intentionally remove or alter any copyright management information...

Definition. — As used in this section, the term “copyright management information” means any of the following information....

(1) The title and other information identifying the work, including the information set forth on a notice of copyright. (2) The name of, and other identifying information about, the author of a work. (3) The name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright.

US CODE SECTION 1203 (IN PART)

(c) Award of Damages. —

(1) In general.—Except as otherwise provided in this title, a person committing a violation of section 1201 or 1202 is liable for either —

(A) the actual damages and any additional profits of the violator, as provided in paragraph (2), or
(B) statutory damages, as provided in paragraph (3).

...

(3) (B) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages **for each violation of section 1202 in the sum of not less than \$2,500 or more than \$25,000.**

For more information about copyright law consult an attorney or see:

<https://www.copyright.gov/title17/92chap12.html#1202>

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Copyright

United States Copyright Office

Try the [Copyright Public Records System \(CPRS\)](#) pilot with enhanced search features and filters.
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Public Catalog

Copyright Catalog (1978 to present)

Search Request: Left Anchored Copyright Number = VA0002295301

Search Results: Displaying 1 of 1 entries

[◀ previous](#) [next ▶](#)
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Michelle Monique 2019 Published Photo Collection.

Type of Work: Visual Material

Registration Number / Date: VA0002295301 / 2022-03-15

Application Title: Michelle Monique 2019 Published Photo Collection

Title: Michelle Monique 2019 Published Photo Collection. [Group registration of published photographs. 57 photographs. 2019-01-25 to 2019-09-02]

Description: 57 photographs : Electronic file (eService)

Copyright Claimant: Michelle Monique. Address: c/o Higbee & Associates 1504 Brookhollow Drive, Suite 112, Santa Ana, CA, 92705, United States.

Date of Creation: 2018

Publication Date Range: 2019-01-25 to 2019-09-02

Nation of First Publication: United States

Authorship on Application: Michelle Monique; Citizenship: United States; Authorship: photographs.

Rights and Permissions: Great Bowery, Inc. dba Trunk Archive, licensing@trunkarchive.com

Copyright Note: Regarding title information: Deposit contains complete list of titles that correspond to the individual photographs included in this group.

Regarding group registration: A group of published photographs may be registered on one application with one filing fee only under limited circumstances. ALL of the following are required: 1. All photographs (a) were created by the same author AND (b) are owned by the same copyright claimant AND (c) were published in the same calendar year AND 2. The group contains 750 photographs or less AND 3. A sequentially numbered list of photographs containing the title, file name and month of publication for each photograph included in the group must be uploaded along with other required application materials. The list must be submitted in an approved document format such as XLS or PDF. The file name for the numbered list must contain the title of the group and the Case Number assigned to the application.

Photographs: Published in January 2018 (11 photographs): GS1715583, GS1715586, GS1715591, GS1715594, GS1715602, GS1715606, GS1715612, GS1715615, GS1715622, GS1715623, GS1715625,

Published in February 2018 (3 photographs): GS1697258, GS1697259, GS1697260,

Published in March 2018 (8 photographs): GS1701619, GS1701621, GS1701624, GS1701627, GS1701630, GS1701633, GS1701634, GS1701637,

Published in April 2018 (24 photographs): GS1715631, GS1715632, GS1715634, GS1715636, GS1715637, GS1715639, GS1715640, GS1715642, GS1715643, GS1715644, GS1715645, GS1743805, GS1743806, GS1743807, GS1743808, GS1743809, GS1743810, GS1743811, GS1743812, GS1707768, GS1707773, GS1707776, GS1707779, GS1707784,

Published in August 2018 (5 photographs): GS1764275, GS1764276, GS1764274, GS1764273, GS1764272,

Published in September 2018 (6 photographs): GS1743091, GS1743092, GS1743093, GS1743096, GS1743097, GS1743098,

Names: Monique, Michelle
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Mathew Higbee: CA # 241380, MI # P73980, MN # 0388759, NV # 11158, OR # 106514, UT # 11133, WA # 42755, TX # 24076924, IL # 6319929, OH #0094107 *

Ray Ngo: UT # 11936, NY # 4780706

Melissa Higbee: CA # 247998, AZ # 024644, FL # 62465, PA # 322114, NJ # 030812012, TN # 034677

Theodore Sell: CO # 44157

Taryn Murray: MA

Naomi Sarega: CA # 306967, IN # 34182-49 *

* Multiple additional federal courts

LETTER OF REPRESENTATION POWER OF ATTORNEY

RE: Great Bowery, Inc. dba Trunk Archive

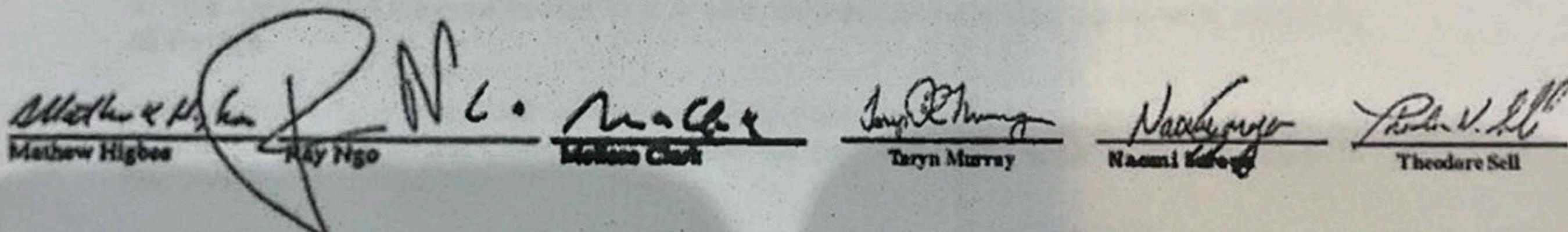
To Whom It May Concern:

Please be advised that the Law Firm of Higbee & Associates has been retained by Great Bowery, Inc. dba Trunk Archive regarding a copyright infringement matter. As such, we have been appointed as attorney in fact with full power and authority in determining the validity of the above matter and assist in any negotiation, settlement, and payment. We are further authorized to pursue any legal remedies available to our client as a result of this matter. Any attorney, staff member or agent of Higbee & Associates is hereby authorized to discuss any effort to settle and resolve the above matter.

Effective immediately, all communication (mail, phone, electronic or otherwise) regarding the above matter must be forwarded to Higbee & Associates at:

Higbee & Associates
1504 Brookhollow Drive, Suite 112
Santa Ana, CA 92705
(714) 617-8385 Telephone

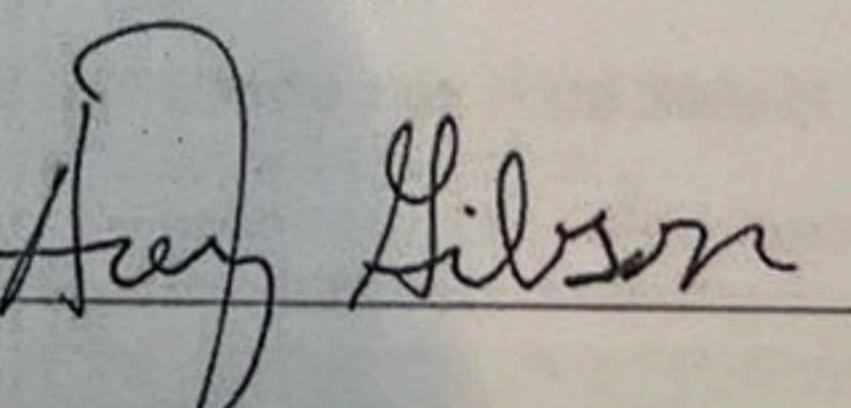
Sincerely,



The undersigned have retained Higbee & Associates and grant full power and authority as described above.

Date: 1/18/2019

Client: Great Bowery, Inc. dba Trunk Archive

Signature: 

Higbee & Associates

A NATIONAL LAW FIRM

CREDIT CARD PAYMENT AUTHORIZATION FORM

The Law Firm of Higbee & Associates offers interest-free payment plans through our automated billing system. Sign and complete this form to authorize the Law Firm of Higbee & Associates to make the agreed upon credit or debit card or ACH payments. RELEASEE agrees to pay the settlement amount of \$6,500.00 in 1 automatic payment.

By signing this form you give us permission to bill your credit/debit card or bank account for the amount indicated on the dates above plus any additional fees, penalties, or interest charges which have accrued in accordance with the Release and Settlement Agreement ("Settlement Agreement"). This is permission for all transactions related to the Settlement Agreement, and does not provide authorization for any additional unrelated charges.

Please complete the information below:

PAYMENT METHOD (Please Choose One & Provide Requested Information):

CREDIT CARD

Name as it Appears on Card: _____

Credit Card #: _____

Expiration Date: _____ CCV (Security Code): _____

Billing Address: _____

ACH / DIRECT DEPOSIT

Name on the Account: _____

Account Type: Savings Checking

Account #: _____

Routing #: _____

Bank Name: _____

I hereby authorize The Law Firm of Higbee and Associates to automatically bill my account on the dates indicated in the payment plan above.

PRINT NAME: _____

TITLE: _____

COMPANY: _____

Signature: _____ Date: _____

I authorize the above named business to charge the credit card indicated in this authorization form according to the terms outlined above. This payment authorization is for the goods/services described above, for the amount indicated above only, and is valid for the specified use only. I certify that I am an authorized user of this credit card and that I will not dispute the payment with my credit card company; so long as the transaction corresponds to the terms indicated in this form.